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In re Application of :
Furst et al. :
U.S. Application No. 10/597,552 :
PCT No.: PCT/DK2005/000086 :
Int. Filing Date: 09 February 2005 : DECISION
Priority Date: 09 February 2004 :
Attorney Docket No.: 04305/0205242-US0 :
For: DIGITAL MICROPHONE :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 28 July 2006, applicants filed electronically a U.S. national stage application that included, among other materials, payment of the U.S. basic national fee; the submission was assigned U.S. application number 10/597,552.

The materials filed 28 July 2006 included: (1) Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission that identified the application as a U.S. national stage of PCT/DK2005/076466; (2) a preliminary amendment that identified the application as a national stage of PCT/DK2005/076466; (3) an application data sheet that identified the application as a national stage of PCT/DK2005/000086 and (4) a fee payment of \$900.

The bibliographic data entered by applicants as part of the electronic filing identified the application as a U.S. national stage of PCT/US05/76466. Thus, applicant's 28 July 2006 filing included conflicting instructions that identified the submission as a U.S. national stage of three different international applications: PCT/DK2005/000086; PCT/DK2005/076466; and PCT/US2005/076466.

Based on USPTO processing procedures, the application file was initiated in the USPTO PALM system as a U.S. national of PCT/US2005/076466, the international

application number set forth in the bibliographic data provided by applicant when filing the electronic application.

DISCUSSION

A review of the materials filed by applicants on 28 July 2006 as a whole reveals that applicant's likely intention was to enter the national stage for international application PCT/DK2005/000086. However, as noted above, applicant's entry of PCT/US2005/076466 during the filing process has caused the present application file to be initiated as a national stage of PCT/US2005/076466. Moreover, due to the conflicting instructions in the 28 July 2006 filing, the U.S. basic national fee filed on 28 July 2006 cannot, on the present record, be treated as having been directed to PCT/DK2005/000086 (as necessary to avoid abandonment of such application).


In order for the 28 July 2006 national stage entry and basic national fee payment to be treated as filed on such date with respect to PCT/DK2005/000086, a grantable petition under 37 CFR 1.182 is required. Such a petition must: (1) specifically identify the international application for which national stage entry was intended; (2) explain the presence of the conflicting instructions (i.e., typographical errors, etc.); and (3) correct the file record to correspond with the desired application, where appropriate (i.e., submit a corrected Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission). The petition must also include the required \$400 petition fee.

CONCLUSION

As set forth above, a grantable petition under 37 CFR 1.182 is required to clarify the international application to which the 28 July 2006 national stage filing and basic national fee were directed. The requirements for such a petition are discussed above.

Such petition must be submitted within **TWO (2) MONTHS** of the mail date of the present communication. Failure to file a timely and proper response will result in abandonment of the application. Extensions of time under 37 CFR 1.136(a) are available.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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